

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**JOAN FAULK OWENS and
KAREN LYNN HUBBARD,**

Plaintiffs,

V.

STATE OF ALABAMA DEPT. OF
MENTAL HEALTH AND MENTAL
RETARDATION, *et al.*,

Defendants.

2:07-cv-650

**DEFENDANTS' REPORT TO THE COURT REGARDING
AVAILABILITY OF DEPOSITION TRANSCRIPTS AND BURELL AFFIDAVIT**

COME NOW the Defendants, by and through counsel, and submit the following report to the Court concerning the deposition transcripts of Marilyn Benson and John Houston, and the execution of the new Burell affidavit. The depositions were taken respectively on June 24, and June 26.

1. The undersigned counsel spoke with the Court Reporter in this matter as early as possible on Monday, June 30, and she advised that her first opportunity to get the deposition transcripts back to counsel for both sides will be the first of next week. Monday of next week is July 7. Therefore, if counsel for Defendants receives the transcripts as expected on July 7, supplementary exhibits and page references to the brief on Motion for Summary Judgment should be filed no later than July 8, 2008, with regard to these two deposition transcripts.

2. The Court Reporter had a previously-scheduled deposition on June 30, which had to be transcribed and returned by today, July 1. Friday is July 4 and, of course, no work will take place on that day. Counsel for the Defendants inquired as to whether paying a fee to expedite the transcription would help obtain the transcripts earlier, but the reporter indicated that July 7 is the earliest possible date for her completing the transcription under any circumstances.

3. The affidavit of Becky Burell, with the insertion of the "personal knowledge" language should be executed and faxed on July 7, 2008 and the original mailed to counsel on the same date.

WHEREFORE, undersigned counsel respectfully reports to the Court with regard to the availability of the deposition transcripts and the Burell affidavit.

/s/ H. E. Nix, Jr.
H.E. NIX, JR. (NIX007)
BRANDY F. PRICE (PRI079)
Counsel for Defendants

OF COUNSEL:

Nix, Holtsford, Gilliland, Higgins & Hitson, P.C.

P.O. Box 4128

Montgomery, AL 36103-4128

334-215-8585

334-215-7101 - facsimile

cnix@nixholtsford.com

bprice@nixholtsford.com

CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the foregoing instrument has been served (a) through the Court's e-filing system; (b) by placing a copy of same in the United States Mail, postage prepaid and properly addressed; and/or (c) by e-mail to

J. Flynn Mozingo <i>Melton, Espy & Williams, P.C.</i> P. O. Drawer 5130 Montgomery, AL 36103-5130	Courtney W. Tarver Deputy Atty. General and Gen. Counsel Bureau of Legal Services Dept. of Mental Health and Mental Retardation RSA Union Building 100 N. Union Street Montgomery, AL 36130-1410
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on this the 1st day of July, 2008.

/s/ H. E. Nix, Jr.

OF COUNSEL